

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FOOTBRIDGE CAPITAL, LLC,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	
v.	)	NO. 08-
	)	
2945 POPLAR DEVELOPMENT, LLC,	)	
	)	
Defendant.	)	
	)	

**COMPLAINT**

Plaintiff, Footbridge Capital, LLC, by its attorneys, Pepper Hamilton LLP, files this Complaint and avers the following:

**THE PARTIES**

1. Plaintiff, Footbridge Capital, LLC (“Footbridge”), is a Delaware limited liability company existing under the laws of the State of Delaware, with its principal place of business at One Thorndale Circle, Darien, Connecticut 06820.

2. Defendant, 2945 Poplar Development, LLC (“Poplar”), is a Florida limited liability company existing under the laws of the State of Florida, with its principal place of business at 805 Cross Street, Building #2, Lakewood, New Jersey 08701.

**JURISDICTION**

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) by virtue of the diversity of citizenship of the parties. The amount in controversy exceeds seventy-five thousand dollars, exclusive of interest and costs.

4. Venue lies within this district pursuant to 28 U.S.C. § 1391(a)(2) and § 1391(c).

**OPERATIVE FACTS**

5. On or about January 18, 2007, Poplar, as borrower, executed a Mortgage Note, as modified by the Modification of Mortgage Note dated May 22, 2007, pursuant to which Footbridge made a loan to Poplar in the original principal amount of \$17,000,000 (together, the “Note”). Copies of the Mortgage Note and the Modification of Mortgage Note are attached as Exhibit A.

6. On or about January 18, 2007, Poplar and Footbridge executed an Open-End Mortgage, Assignment of Rents and Leases, Security Agreement and Financing Statement (the “Mortgage”), pledging certain property located at 29-45 Poplar Street and 918-980 Delaware Avenue, Philadelphia, Pennsylvania (the “Property”) as security for the repayment of the Note and providing for certain remedies and relief in the event that Poplar’s obligations under the Note were in default. A copy of the Mortgage is attached as Exhibit B.

7. The Mortgage was recorded in Philadelphia County on January 25, 2007 as Document ID No. 51618662. The Mortgage, together with the Note and other loan documents executed in connection therewith, are collectively referred to as the “Loan Documents”.

8. Poplar failed to make payments as required by the Loan Documents.

9. Poplar has defaulted under the Loan Documents.

10. Poplar has not cured such default despite receipt of written notification of such default by Footbridge.

11. As authorized by the Loan Documents, on November 23, 2007, Footbridge served a letter (via Federal Express) upon Poplar demanding payment in the amount of \$50,450.99 representing attorneys’ fees and expenses incurred from August 2007 through

November 23, 2007 (the “First Notice”). The First Notice further apprised Poplar that the failure to pay such amount by November 30, 2007, would result in a default.

12. Having received no payment from Poplar, on January 4, 2008, Footbridge served a second letter (via Federal Express) upon Poplar (the “Second Notice”) demanding that Poplar remit payment.

13. The Note matured on January 18, 2008, but was not satisfied.

14. On January 22, 2008, Footbridge served a third letter (via Federal Express) upon Poplar (the “Third Notice”) demanding payment in the amount of \$50,450.99, plus the unpaid principal amount \$16,500,000, plus accrued interest and other costs. The principal payment plus accrued interest and other costs was required by the Loan Documents to have been made by January 18, 2008. The Third Notice informed Poplar that it remained in default under the terms of the Loan Documents and that the failure to pay all amounts due under the Note would result in Footbridge exercising all its rights and remedies prescribed in the Loan Documents.

15. As of this date, Poplar has not made any payments and remains in default.

16. Since the principal amount of \$16,500,000 that was due on January 18, 2008 was not paid within fifteen days thereafter, Footbridge is entitled to a late payment fee equal to five percent of the payment due, or \$825,000, pursuant to section 6 of the Note.

17. In addition, sections 2.1(o) and 5.6 of the Mortgage and section 12(D) of the Note entitle Footbridge to an award of attorney’s fees and costs of suit in the amount of five percent of the sum of all amounts owed by Poplar.

18. As authorized by the Loan Documents, Footbridge has declared the entire unpaid principal balance, together with accrued interest, late charges and other past due amounts

as immediately due and payable and Footbridge has been accruing interest at the past due rate of sixteen percent (16%) per annum on all amounts outstanding under the Note from the default date set forth in the First Notice through and including the date hereof (excluding the late charge amounts referenced in paragraph 16 above).

19. As of May 9, 2008, the amount due from Poplar under the Loan Documents, including late charges, attorneys fees, costs and interest as authorized by the Loan Documents is as follows:

Principal	\$16,500,000.00
Default Interest	\$914,776.72
Contractual Costs of Suit and Contractual Attorneys Fees	\$911,988.84
Late Payment Fee	\$825,000.00
Total	<u>\$19,151,765.56</u>

20. Default interest continues to accrue at \$7,355.76 per diem and the contractual costs of suit and contractual attorneys fees continue to accrue at \$367.79 per diem. The total per diem rate is equal to \$7,723.55.

### **COUNT I BREACH OF CONTRACT**

26. Footbridge incorporates by reference paragraphs 1 through 25 above as if fully set forth.

27. Footbridge has fully performed its obligations under the Loan Documents.

28. Poplar has breached and materially defaulted under the terms of the Mortgage and Note by failing to make payment to Footbridge as required.

29. As a result of Poplar's breach of the Loan Documents, Footbridge has incurred damages in excess of \$19,151,765.56, inclusive of interest, penalties, and costs.

WHEREFORE, Plaintiff Footbridge Capital, LLC requests:

(a) judgment in its favor and against Defendant 2945 Poplar Development, LLC;

(b) in the amount of \$19,151,765.56, plus continuing default interest and contractual costs of suit and contractual attorneys fees at the total per diem rate of \$7,723.55 from May 9, 2008 through the date of judgment; and

(c) such other relief as the Court deems equitable and just.

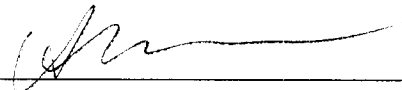
Of Counsel:

PEPPER HAMILTON LLP

Richard P. Eckman  
Matthew A. Vigunas  
Hercules Plaza, Suite 5100  
1313 Market Street  
PO Box 1709  
Wilmington, DE 19899  
(302) 777-6500

PEPPER HAMILTON LLP

Edward C. Toole, Jr. (Pa. I.D. No. 04855)  
Anne Marie Aaronson (Pa. I.D. No. 82118)  
3000 Two Logan Square  
18<sup>th</sup> & Arch Streets  
Philadelphia, PA 19103  
(215) 981-4000

By: \_\_\_\_\_

Attorneys for Plaintiff, Footbridge Capital, LLC

Dated: May 12, 2008

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FOOTBRIDGE CAPITAL, LLC,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	
v.	)	NO. 08-
	)	
2945 POPLAR DEVELOPMENT, LLC,	)	
	)	
Defendant.	)	
	)	

**JUDGMENT**

AND NOW, this                      day of May, 2008, it is hereby ORDERED that Judgment is entered in favor of Plaintiff Footbridge Capital, LLC and against Defendant 2945 Poplar Development, LLC in the sum of \$19,151,765.56 as of May 9, 2008, with an additional total per diem rate of \$7,723.55 from May 9, 2008 through the date of this Judgment.

BY THE COURT:

\_\_\_\_\_  
Berle M. Schiller, J.